

APPENDIX E

Pass-Through of Funds

I. Introduction

Since local officials cannot apply directly to DOE for grants, the question is whether DOE should require a pass-through of funds from state to local officials. A pass-through of funds from the state to local public officials might meet the intent of the Nuclear Waste Policy Act – to train public safety officials of appropriate units of local government. However, in some states, the emergency response structure is such that first responders include state or regional officials and the local responder’s role can be limited. On the other hand, local officials have expressed concern that without a pass-through requirement, there is no guarantee that the states will work with local governments to prepare for NWPA shipments.

II. Background

The NWPA does not require a pass-through of funds. For this reason, DOE’s *1998 Draft Policy* likewise did not require a pass-through of funds to the local level. In response to the *1998 Draft Policy*, some local governments expressed concern that, without a pass-through requirement, local officials would not necessarily receive the training and assistance that Section 180(c) intends.

The U.S. Department of Transportation Hazardous Materials Emergency Preparedness (HMEP) Program provides a model for balancing flexibility with the need to show benefit to the intended recipients of the aid. When it established the HMEP program, Congress required that at least 75 percent of training grant funds benefit local public sector employees. The HMEP’s guidance indicates that funds do not have to be physically transferred as long as the applicant demonstrates that 75 percent of the funds have gone to the benefit of public sector employees.

The following training delivery options may be used by the State or Territory to meet the 75 percent requirements:

- Develop and deliver training to the public sector employees according to the priority needs and requests of the LEPC¹s;

¹ Local Emergency Planning Committee (LEPC) means a committee appointed by the State Emergency Response Commission under section 301(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001(c)) that includes at a minimum, representatives from each of the following groups or organizations: elected State and local officials; law enforcement, firefighting, civil defense, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to the emergency planning requirements.

- Distribute training grant funds directly to the LEPCs to support public sector employee training delivered by any provider; and
- Distribute training grant funds directly to the public sector employees so that the employees can attend approved training courses.”

III. Options Considered

The Department has three options regarding a pass-through of funds to the local level. Which option the Department chooses depends on how the Department balances flexibility for recipients with the need to ensure the recipients meet Section 180(c) program goals.

Option 1: Require recipients to demonstrate in the application package and reporting requirements that Section 180(c) assistance will be used to meet the program’s goals, but do not require a percentage pass-through of funds.

Option 2: Require a pass-through of funds at some percentage.

Option 3: Do not require either a pass-through of funds or a demonstration that local public safety officials will benefit.

IV. Recommendation

The Topic Group recommends that DOE adopt Option 1: DOE should not require a pass-through of funds but recipients should demonstrate in the application package and reporting requirements how Section 180(c) assistance will be used to meet the goals of the program.